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Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
New York, 2-26 May 2006

Agenda

1. Opening of the Conference by the Secretary-General or his representative.
2. Election of the President.
3. Adoption of the rules of procedure.
4. Adoption of the agenda.
5. Election of officers other than the President.
6. Organization of work.
7. Credentials of representatives to the Conference:
   (a) Appointment of the members of the Credentials Committee;
   (b) Report of the Credentials Committee.
8. Presentation of the report of the fifth round of informal consultations of States parties to the Agreement.
9. Review and assessment of the adequacy of the provisions of the Agreement and, if necessary, proposed means of strengthening the substance and methods of implementation of the provisions of the Agreement, as guided by the organization of work of the Conference.[1]
10. Consideration of the report on the status of the Assistance Fund.
11. Adoption of the final report of the Conference.
12. Other matters.
13. Closure of the Conference.

[1] A/CONF.210/2006/4.

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Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
New York, 22-26 May 2006

Note verbale dated 22 May 2006 from the Permanent Missions of Argentina, Chile, Colombia, Cuba, Ecuador, El Salvador, Guatemala, Mexico and Peru to the United Nations addressed to the Secretariat

The Permanent Missions of Argentina, Chile, Colombia, Cuba, Ecuador, El Salvador, Guatemala, Mexico and Peru to the United Nations present their compliments to the secretariat of the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs and have the honour to refer to the Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Fish Stocks Agreement).

In that regard, we are pleased to announce that following a joint meeting of the members of the Latin American Organization for Fisheries Development and the members of the Permanent South Pacific Commission, held at Lima, on 9 March 2006, a joint declaration was issued ahead of the Review Conference on the Fish Stocks Agreement (see annex).

The members of the Latin American Organization for Fisheries Development are Belize, Bolivia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Peru and the Bolivarian Republic of Venezuela. The members of the Permanent South Pacific Commission are Chile, Colombia, Ecuador and Peru. It should be noted that Argentina endorsed the declaration referred to in the paragraph above.

I should be grateful if you would arrange for the present note and its annex to be circulated as a document of the Review Conference.

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Annex to the note verbale dated 22 May 2006 from the Permanent Missions of Argentina, Chile, Colombia, Cuba, Ecuador, El Salvador, Guatemala, Mexico and Peru to the United Nations addressed to the Secretariat

Declaration of the Latin American and Caribbean countries ahead of the Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks ("the Agreement")

The States signatories to this Declaration are of the view that adequate regulation of fishing of straddling fish stocks and highly migratory fish stocks on the high seas is very important. Accordingly, they express support for the Agreement and intend to help to identify those aspects that have prevented a greater number of States from becoming parties thereto so as to seek ways of promoting its universal membership.

The lack of universality is the main reason that detracts from the effectiveness of the Agreement. Accordingly, as pointed out by various delegations during the fourth informal consultations of States Parties to the Agreement, the review process should aim at increasing participation in the Agreement and thus removing the obstacles preventing a greater number of States from being parties thereto.

The purpose of article 36 of the Agreement on the convening of a Review Conference to assess the effectiveness and adequacy of the Agreement, is to grant to all States the right of full participation in the Review Conference on an equal footing, which should be reflected in its rules of procedure.

The aspiration of achieving universality is inseparable from the concept of equal participation in a review process.

Accordingly, they state the following:

1. In assessing the effectiveness of the Agreement and reviewing and assessing the adequacy of its provisions, the Review Conference should duly comply with the provisions of article 4 of the Agreement which shall be interpreted and applied in the context of and in a manner consistent with the United Nations Convention on the Law of the Sea.

2. Coastal States are not bound to adopt any measures within the 200 mile zone under their national jurisdiction or take any action that would affect the free exercise of their sovereign rights therein. Therefore, articles 5, 6 and 7 of the Agreement shall not be interpreted or applied in a manner incompatible with their rights under the Convention.

3. It is and should be unquestionable that the rules set forth in articles 116 and following of the United Nations Convention on the Law of the Sea are fully applicable, with specific reference to that article. It follows that fishing on the high seas must be conducted in accordance, among other things, with the rights, duties and interests of the coastal States, pursuant to articles 63 and 64 and part VII, section 2, of the Convention.

4. In accordance with the international law of the sea and in particular article 11 of the Convention on the Law of the Sea, the port State has the same full sovereignty over its maritime terminals that it has over its internal waters. That means that it has complete discretion with respect to them and may place restrictions on their use when fishing activities occur that are incompatible with the measures in effect within the national jurisdiction.

Article 23, paragraph 4, of the Agreement recognizes and reaffirms that sovereignty. Paragraphs 1, 2 and 3 should be understood as indicative in nature, that is, as offering examples of the powers that such full sovereignty entails.

5. A "real interest", as the concept is used in article 8 of the Agreement, qualifies States to become members of regional organizations; however, decisions on conservation measures must be taken by the coastal States and the fishing States, as provided in the Convention on the Law of the Sea.

6. The topics of boarding and inspection addressed in articles 21 and 22 of the Agreement should be evaluated and reviewed, with a view to considering alternative systems of surveillance and monitoring that would make boarding and inspection unnecessary.

In addition, the possibility should be considered of elaborating a technical annex to the Agreement that would set out specific mechanisms for the payment of compensation that the inspecting State would owe if damage or loss should result from boarding contrary to international law.

7. Effective implementation of the Agreement requires that the regional fisheries organizations should develop criteria for the management of fishery resources that take into account the economic and social interests and rights of the coastal States in whose areas of national jurisdiction the stocks also occur, as well as the criteria agreed upon by fisheries management organizations. The interests of the developing States in the region or subregion, including landlocked countries, should also be taken into account.

8. The Review Conference should reaffirm the fundamental principle of compatibility found in the Convention on the Law of the Sea and expressed in article 7 of the Agreement and its full applicability to the high seas.

Care should be taken to ensure that measures applicable to the high seas, or the lack of such measures, do not undermine the efficacy of the measures applied to straddling fish stocks and highly migratory fish stocks by the coastal State in the waters under its jurisdiction.

Therefore:

Our countries would like the Review Conference, in its final declaration, to include the points stated above as explanatory or interpretive criteria, since in our view they flow logically from the Agreement and its harmonization with the Convention on the Law of the Sea and with international law of the sea in general.

That step would certainly promote the general acceptance of and universal adherence to the Agreement, which we believe has great value and significance.

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Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
New York, 22-26 May 2006

Credentials of representatives of participating States in the Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

Report of the Credentials Committee

Chairperson: Mr. Amarawansa **Hettiarachchi** (Sri Lanka)

1. On 23 May 2006, the Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks ("Review Conference") appointed a Credentials Committee of nine members from representatives of the parties to the Agreement, as follows: Germany, India, Mauritius, Norway, Saint Lucia, South Africa, Sri Lanka, Ukraine and Uruguay.

2. The Credentials Committee held its meeting on 24 May 2006.

3. The Credentials Committee elected Mr. Amarawansa Hettiarachchi (Sri Lanka) as Chairperson and Mr. Patrick Jacobs (South Africa) as Vice-Chairperson, by acclamation.

4. The Committee had before it a memorandum by the Secretariat, dated 23 May 2006, on the status of credentials of representatives of States participating in the Review Conference. The Secretary made a statement supplementing the memorandum with regard to including those credentials and communications received subsequent to the preparation of the memorandum.

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5. As noted in paragraph 1 of the memorandum, as orally supplemented during the meeting, formal credentials issued by the Head of State or Government or by the Minister for Foreign Affairs had been received by the Secretariat for the representatives of the following 38 States participating in the Review Conference: Australia, Austria, Bahamas, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cyprus, Ecuador, El Salvador, Germany, Greece, Guatemala, Iceland, India, Italy, Japan, Luxembourg, the Marshall Islands, Mauritius, Micronesia (Federated States of), Monaco, Morocco, Norway, Peru, Poland, Portugal, the Republic of Korea, the Russian Federation, Slovakia, South Africa, Sri Lanka, Sweden, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay.

6. As noted in paragraph 2 of the memorandum, the formal credentials issued by the President of the European Commission had also been submitted for the representatives of the European Community.

7. As noted in paragraph 3 of the memorandum, as orally supplemented during the meeting, information concerning the appointment of representatives participating in the Review Conference had been communicated by means of facsimile or in the form of letters or notes verbales from ministries, embassies, permanent missions to the United Nations or other government offices or authorities, or through local United Nations offices, by the following 53 States participating in the Review Conference: Algeria, Angola, Argentina, Barbados, Belgium, Bolivia, Colombia, Costa Rica, Cuba, the Democratic Republic of the Congo, Fiji, Finland, France, Honduras, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Kenya, Kuwait, Latvia, Lebanon, the Libyan Arab Jamahiriya, Madagascar, Malaysia, Mexico, Myanmar, Namibia, Nauru, the Netherlands, New Zealand, Nigeria, Pakistan, Palau, Papua New Guinea, the Philippines, Qatar, Romania, Saint Lucia, Samoa, Senegal, Sierra Leone, Singapore, Solomon Islands, Spain, the Syrian Arab Republic, Tonga, Tunisia, Ukraine, the United Republic of Tanzania, Venezuela (Bolivarian Republic of), Viet Nam and Yemen.

8. The Chairperson proposed that the Credentials Committee accept the credentials of all the representatives mentioned in the memorandum by the Secretariat, supplemented by the additional information provided by the Secretariat during the meeting of the Committee, on the understanding that formal credentials of the representatives referred to in paragraph 3 of the Secretariat's memorandum would be communicated to the Secretariat as soon as possible. The following draft resolution was proposed by the Chairperson for adoption by the Committee:

> "*The Credentials Committee*,
>
> "*Having examined* the credentials of the representatives of participating States in the Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks referred to in paragraphs 1 to 3 of the memorandum by the Secretariat dated 23 May 2006, supplemented by the additional information provided by the Secretariat during the meeting of the Credentials Committee,
>
> "*Accepts* the credentials of the representatives concerned."

9. The draft resolution was adopted by the Committee without a vote.

10. Subsequently, the Chairperson proposed that the Committee recommend to the Review Conference the adoption of a draft resolution (see para. 12). The proposal was adopted without a vote.

11. In the light of the foregoing, the present report is submitted to the Review Conference.

Recommendation of the Credentials Committee

12. The Credentials Committee recommends to the Review Conference the adoption of the following draft resolution:

> **"Credentials of representatives of participating States in the Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**
>
> "*The Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks,*
>
> "*Approves* the report of the Credentials Committee."